IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

PETER ROBERT FLUX

Group Art Unit: 3634

Examiner: Alvin C. Chin She

Serial No.: 09/890,771

Filed: March 5, 2002

For: SAFETY LINE ANCHOR

Attorney Docket No.: UDL0157PUSA

APPEAL BRIEF TRANSMITTAL

Mail Stop Appeal Brief - Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an Appeal Brief for the appeal of the above application together with a check in the amount of $500.00 as applicable under the provisions of 37 C.F.R. § 41.20(b)(2). Please charge any additional fee or credit any overpayment in connection with this filing to our Deposit Account No. 02-3978 -- a duplicate of this Transmittal is enclosed for that purpose.

Respectfully submitted,

PETER ROBERT FLUX

By: _____

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Date: July 5, 2005

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CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

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July 5, 2005	James A. Kushman	_____
Date of Deposit	Name of Person Signing	Signature

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TRW

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Alexandria, VA 22313-1450

Sir:

This is an Appeal Brief for the appeal from the final rejection of claims 1-4 and 10-12 of the Office Action mailed on January 10, 2005 for the above-identified patent application.

I. REAL PARTY IN INTEREST

The real party in interest is Latchways Plc. ("Assignee"), a British company having a place of business at Hopton Park, Devizes, Wiltshire, SN10 2JP, Great Britain, as set forth in the assignment recorded in the U.S. Patent and Trademark Office on March 11, 2002 at Reel 012706, Frame 0557.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

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July 5, 2005	James A. Kushman	
Date of Deposit	Name of Person Signing	Signature

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to the Appellant, the Appellant's legal representative, or the Assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-12 are pending in this application. Claims 1-4 and 10-12 have been rejected and are the subject of this appeal, and claims 5-9 which depend from claim 1 have been withdrawn from consideration due to an April 17, 2003 species election requirement but will be entitled to consideration upon allowance of claim 1 and are thus affected by this appeal.

The current status of the claims are: 1 and 2 - previously presented; 3 - original; 4 - previously presented; 5 - withdrawn, previously presented; 6-9 - withdrawn; and 10-12 - previously presented.

IV. STATUS OF AMENDMENTS

No amendment has been filed since the January 10, 2005 final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The invention of claim 1 and its dependent claims 2-12 is described in the paragraph on page 2 starting at line 18 (as amended on May 17, 2003) and in the specification paragraphs on page 4, lines 15-26 as well as in Figures 1 and 2 of the drawings. More specifically, this invention involves a fall arrest bottom anchor assembly 10 for use with a substantially vertically-oriented elongate safety line 70. This bottom anchor assembly 20

includes a safety line gripper 20 and a load-sensing means or tensioner 80 as well as a fixed bracket whose bottom side is contacted by the tensioner at the bottom end of the safety line to provide a predetermined tension. More specifically, the tensioner 80 includes a hollow shaft 40 that receives the safety line with the safety line extending upwardly therefrom. This hollow shaft 40 has an externally screw-threaded portion including a load setter embodied by a wing nut 81 (Figure 2) that bears against the bottom side of the fixed bracket 50 to adjust the safety line tension to a predetermined value. Upon a fall arrest event as described on specification page 10 in the second paragraph, there is an additional load applied to the safety line 70 as it arrests the fall.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claim 3 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite due to its recital of "conforming to the profile of the safety line".

Claims 1-4 and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by British patent 846,096 David et al.

Claims 1-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over United States patent 5,293,785 Lichtenberg in view of either British patent 917 980 Davies or the David et al. British patent.

Claim 1 is also rejected under 35 U.S.C. § 103(a) as being unpatentable over Lichtenberg '785 in view of French patent 9 205 820 to Pillas.

Claims 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lichtenberg '785 and either David et al. or Davies as applied to claims 1 and 2 and further in view of United States patent 4,854,185 Lichtenberg et al.

Claims 10/1 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lichtenberg and Pillas and further in view of Lichtenberg et al '185.

VII. ARGUMENT

The 35 U.S.C. § 112 Rejection

This rejection is discussed on page 6 where it is more easily understood after further discussion of other rejections.

The 35 U.S.C. 102(b) Rejection of Claims 1-4 and 12

The David et al. patent does not teach or in any way suggest a fall arrest bottom anchor assembly constructed as recited and utilized with a bracket against whose underside a load setter bears to provide tensioning at the bottom of an upwardly extending safety line. The mine rope guide tensioning device of David et al. is unrelated to the present invention since it is for use with guide and rubbing ropes to provide lateral location of conveyances as discussed on page 1, lines 9-17. Such guide ropes do not provide any fall arrest function as provided by the present invention.

Furthermore, David et al. functions at the upper end of the guide rope as opposed to functioning as a fall arrest "bottom" anchor system utilized with an upwardly extending safety line. More specifically, the tensioning structure of David et al. has the guide rope R that extends "downwardly" from the clamping gland 10 and the nut 11 that is adjusted to control tension operates at the upper end of the torque tube 4 unlike the present invention where the load setter of the tensioner bears against the underside of the fixed bracket to provide safety line tension adjustment of the upwardly extending safety line that is adapted to be utilized with the bottom anchor assembly.

David et al. thus does not anticipate the fall arrest safety line bottom anchor assembly of the present invention, nor would this bottom anchor assembly be obvious under 35 U.S.C. § 103 in view of David et al. since the lateral guiding function provided by David et al. is unrelated to the fall arrest function of the present invention.

The 35 U.S.C. § 103(a) Rejection of Claims 1-4

Applicant also respectfully submits that claims 1-4 patentably distinguish under 35 U.S.C. § 103(a) over Lichtenberg '785 in view of either Davies or David et al.

Claim 1 and hence its dependent claims recite a gripper including a manually adjustable clamp that can be clamped to the safety line at an adjustable position along its length. On the other hand, Lichtenberg '785 discloses a cable strand end fitting including a retainer 20 that is staked (i.e., crimped) at one end of the strand 18 as discussed by Lichtenberg et al. at column 2, line 38. Such a retainer member that is staked or crimped to a cable does not permit manually adjustable clamping that is necessary with the present invention so as to be capable of functioning as a bottom anchor assembly with a vertical safety line that extends upwardly. As discussed in the application, this is an important feature of the invention since it permits the bottom anchor assembly to be utilized with structures of different heights while using the same safety line. Furthermore, the manner in which the Lichtenberg '785 retainer member is staked can cause damage to the associated cable which is not acceptable with a fall arrest bottom anchor assembly that is adapted to be utilized with a safety line in the manner claimed. Thus, even if the disclosures of Davies or David et al. are combined with Lichtenberg '785, there still is no provision of the claimed invention.

The 35 U.S.C. § 103(a) Rejection of Claim 1

It is respectfully submitted that claim 1 patentably distinguishes in an unobvious manner under 35 U.S.C. § 103(a) over Lichtenberg '785 in view of French patent '820 to Pillas.

The French Pillas patent discloses both of its embodiments illustrated in Figures 1 and 2 as having an end pieces 5 (Figure 1) and 6 (Figure 2) that are crimped to the wire. While a small amount of adjustment is possible by threading, such a crimped construction is not usable with a fall arrest bottom anchor assembly of the type involved with the present invention where greatly different lengths of the safety line must be adjustably clamped when utilized with structures of greatly different heights. Thus, even if one were to substitute the crimped connection disclosed by Pillas in the Lichtenberg '785 adjuster system, there still would be no provision of the claimed invention.

The 35 U.S.C. § 112 Rejection

Applicant respectfully submits that claim 3 complies with the provisions of 35 U.S.C. § 112, second paragraph. Just because safety lines of different shapes may be utilized and are not part of the claimed combination, configuring the clamp to the shape of a safety line utilized therewith is still a definite recital.

The 35 U.S.C. § 103(a) Rejections of Claims 10 and 11

The rejections of claims 10 and 11 under 35 U.S.C. 103(a) over Lichtenberg '785 when considered with David et al. or Davies are also traversed. Both Lichtenberg and David et al. are discussed above, and the Davies reference merely discloses a stop-block for winding ropes without in any way suggesting an adjustable clamp for use with a tensioner of

a bottom anchor assembly of a fall arrest system. Applicant respectfully submits that it would not be obvious to modify the automotive cable connector of Lichtenberg '785 in view of either the mine rope upper tensioner of David et al. or the stop-block winding rope of Davies et al. since these references all involve different uses that are not analogous or are otherwise unapplicable to the present invention.

The 35 U.S.C. § 103(a) Rejections of Claims 10/1 and 11

Applicant also respectfully traverses the rejection of claims 10/1 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Lichtenberg and Pillas where further viewed with Lichtenberg et al. for the same reasons discussed above.

VIII. CONCLUSION

As discussed above, Applicant respectfully traverses the Examiner's assertion that all of the claimed elements are taught by David et al. More specifically, as previously stated, David et al. is used with ropes providing a lateral guiding function not as a safety line fall arrest function. Also, David et al. lacks the disclosure of any bracket that is adapted to be fixedly mounted and against whose underside the tensioner bears in order to provide tensioning of a vertically oriented safety line that extends upwardly from the fall arrest bottom anchor assembly and is adjustably gripped by it. The Examiner's cobbling of bits and pieces from the prior art in an attempt to reject the claims results from his hindsight and involves such extensive modification and combining as to demonstrate the novel and non-obvious nature of the present invention.

As such, the Board is asked to revise the rejection of the claims.

The fee of $500.00 as applicable under the provisions of 37 C.F.R. § 41.20(b)(2) is enclosed by check.

Respectfully submitted,

PETER ROBERT FLUX

By: _____

James A. Kushman
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Date: July 5, 2005

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Enclosure - Appendices

VIII. CLAIMS APPENDIX

1. (Previously Presented) A fall arrest bottom anchor assembly for use with a substantially vertically-oriented elongate safety line, said bottom anchor assembly comprising a safety line gripper, a safety line tensioner, a bracket that is adapted to be fixedly mounted, wherein the gripper includes a manually adjustable clamp that can be clamped to the safety line at an adjustable position along its length, the tensioner including a hollow shaft connected to the gripper, the hollow shaft being adapted to receive the safety line with the safety line extending upwardly therefrom, said hollow shaft having an externally screw-threaded portion including a load setter threadingly adjustable thereon and adapted to bear against the underside of said fixed bracket for adjusting the safety line tension to a predetermined value.

2. (Previously Presented) A bottom anchor assembly as claimed in claim 1 wherein the manually adjustable clamp includes a pair of clamp blocks adapted to be placed in face-to-face opposing relationship around the safety line immediately beneath the hollow shaft.

3. (Original) A bottom anchor assembly as claimed in claim 2 wherein the clamp blocks are provided with mutually-aligned grooves or recesses substantially conforming to the profile of the safety line.

4. (Previously Presented) A bottom anchor assembly as claimed in claim 3 wherein the clamp blocks are loosely clamped to each other using screw-threaded fasteners for initial assembly and include a further screw-threaded fastener for applying final clamping torque.

5. (Withdrawn - Previously Presented) A bottom anchor assembly as claimed in claim 1 wherein the manually adjustable clamp includes a collet grip through which the safety line passes.

6. (Withdrawn) A bottom anchor assembly as claimed in claim 5 wherein the collet grip is held between an end of the hollow shaft and a screw threaded fastener engaging the external screw thread on the hollow shaft.

7. (Withdrawn) A bottom anchor assembly as claimed in claim 6 wherein the collet grip can be opened or closed onto the safety line by rotating the screw threaded fastener relative to the hollow shaft.

8. (Withdrawn) A bottom anchor assembly according to claim 5 or 6 wherein the collet grip is biased closed onto the safety line by a resilient element.

9. (Withdrawn) A bottom anchor assembly as claimed in claim 8 wherein a sliding release member is provided in contact with the collet grip so that the collet grip can be opened against the bias of the resilient element.

10. (Previously Presented) A bottom anchor assembly as claimed in claim 1, 2 or 5 wherein the bracket includes open jaw members adapted to receive the hollow shaft.

11. (Previously Presented) A bottom anchor assembly as claimed in claim 10 wherein the open jaw members have ends provided with down-turned portions which serve to prevent accidental removal of the load setter threaded on the hollow shaft from between the jaw members when the system is adjusted to its predetermined tension.

12. (Previously Presented) A bottom anchor assembly as claimed in claim 1, 2 or 5 further comprising an indicator for providing a visible indication of when said predetermined tension has been achieved.